

ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

July 10, 2014

715

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Wheeler:

The Universal Service Fund's Schools and Libraries program, also known as E-Rate, provides funding to assist schools and libraries in connecting our students through access to telecommunications services and the Internet, an important goal that we all share. Modernizing the fund to efficiently achieve these goals and keep pace with changing technologies has long been a bipartisan priority. Part of that reform should include fiscal prudence. As we wrote you earlier this year, the explosive and unconstrained growth of the Universal Service Fund is extremely troubling to us, and it is more important than ever that USF programs be structured to maximize value without growing the size of the fund. Last month, you announced a proposal to reform the E-Rate through streamlining administration of the fund and improving utilization of existing funds; this is an approach we support.

Unfortunately, recent reports raise concerns about your commitment to work within existing funds. The proposal promises \$5 billion in new Wi-Fi spending over five years plus continued support for broadband technologies at all schools and libraries. Two billion dollars is supposed to be reprogrammed from unused funds, but the Commission's 2014 carry-forward public notice only identified \$600 million in available funds, \$200 million of which was needed to fully fund existing services in 2014. Other funding is supposed to come from phasing out voice telephone and other outdated services. However, last year's NPRM only identified \$436 million in potential voice telephone savings, and Commissioners Rosenworcel and Pai identified only \$600 million in savings from eliminating voice and other outdated technologies. Given these public figures and reports that your proposal would reduce, but not eliminate, voice subsidies for most schools over two years, the numbers don't seem to add up. A recent FCC blog post suggested there could be \$1.2 billion in savings by eliminating support for non-broadband services, and yet we have not seen evidence of this number. These types of discrepancies underscore our concerns over the sustainability of your plans without imposing additional charges on American telecommunications customers' monthly bills.

We are also troubled by press reports that you have promised to increase the E-Rate budget in the "near term" and recent allegations by Commissioner Pai that you are planning to grow the size of the existing \$9 billion Universal Service Fund through Commission action in a subsequent item. This would be an unacceptable course of action. We urge you to modernize the fund to bring our nation's students the twenty-first century tools they need to succeed without increasing the ever-growing burden of USF on rate-payers.

In addition to the financial considerations, recent reports have also raised red flags as to the procedural approach to this item. As you know, good FCC process has long been a priority for the Committee. Engaging in bipartisan deliberation of all items should be the goal for every Chairman, particularly when all parties should share the same goals: creating a fund that will appropriately serve schools and the students that rely on modern technology, and that is fiscally prudent and does not over-burden ratepayers.

Sincerely,



Fred Upton
Chairman
Committee on Energy and Commerce



Greg Walden
Chairman
Subcommittee on Communications and
Technology

cc: The Honorable Henry A. Waxman, Ranking Member
House Committee on Energy and Commerce

The Honorable Anna Eshoo, Ranking Member
Subcommittee on Communications and Technology

The Honorable Mignon Clyburn, Commissioner
Federal Communications Commission

The Honorable Jessica Rosenworcel, Commissioner
Federal Communications Commission

The Honorable Ajit Pai, Commissioner
Federal Communications Commission

The Honorable Michael O'Rielly, Commissioner
Federal Communications Commission



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

August 11, 2014

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Upton:

Thank you for sharing your views about E-rate modernization. I appreciate your support of the Commission's ongoing work to streamline E-rate's administration and improve the use of its existing funds. Doing so is vital to ensuring the program can help extend broadband connectivity to and within the greatest number of schools and libraries in the most cost-effective manner.

Your letter raises concerns about the Commission's ability to work within existing funds to meet the \$5 billion Wi-Fi spending target established in the July 11, 2014, *Modernizing the E-rate Program for Schools and Libraries Report and Order and Further Notice of Proposed Rulemaking*. I am confident that there will be sufficient funds available to meet these goals. First, earlier this year, the Commission announced it had identified \$2 billion in savings from existing E-rate funds to be derived from reprioritizing existing E-rate funds to focus on high-capacity Internet connectivity, increasing program efficiency, and modernizing the program's management. Second, the *Order* gradually phases out E-rate support for non-broadband services, such as voice services, which, according to Commission analysis, would yield approximately \$3.6 billion in savings aggregated over five funding years. Please note, also, that actual savings may be greater to the extent spending on voice services decreases as discount levels are reduced. Third, the *Order* also introduces additional transparency measures that should have the effect of improving the purchasing efficiency for all E-rate services, which will also help ensure the adequacy of the five-year budget. Consequently, we are confident that we have sufficient funds with which to meet the Wi-Fi spending targets outlined in the *Order*.

Importantly, the *Order* introduced the five-year Wi-Fi budget as an aspirational target, not a mandatory allotment. We also included a provision that will ensure that, should insufficient funds ever be a problem, traditional broadband connectivity needs will come first, just as they always have.

Additionally, your letter references press reports that allege promises have been made to increase the E-rate budget in the "near term." The *Order* includes a *Further Notice of Proposed Rulemaking*, which, among other things, requests comment on how much funding is needed to

meet the E-rate program goals established in the *Order*, keeping in mind our responsibility to minimize the overall Universal Service Fund contribution burden on businesses and consumers. Given that E-rate's funding cap was established in 1997, first indexed to inflation in 2011, and now applies to a program wherein we have seen continually increasing demand for high-speed Internet connections and Wi-Fi support, we believe this issue merits serious consideration. The Commission will take action in this matter only on the basis of a sound record. At this time, however, the Commission has made no decisions about this matter, and the current E-rate funding cap will remain in place through funding year 2016.

Finally, your letter cites "recent reports" concerning the "procedural approach" the Commission employed to adopt the *Order*. I share your interest in good Commission process. The *Order* is based upon comments received in response to the 2013 *E-rate Modernization Notice of Proposed Rulemaking* and the 2014 *E-Rate Modernization Public Notice*. Moreover, Bureau staff began briefing other Commissioners' offices about the draft *Order* over a month in advance of the July Open Meeting. Each of my fellow Commissioners was afforded many opportunities to offer comments and request revisions to the draft *Order*. Their suggestions were duly considered, and the *Order* was adopted at a Commission Open Meeting, per usual Commission procedures.

Thank you again for being in touch with your concerns. I look forward to continuing the Commission's work with you and others to modernize the E-rate program with a view toward maximum connectivity and cost-effectiveness.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Wheeler", with a stylized, cursive script.

Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

August 11, 2014

The Honorable Greg Walden
Chairman
Subcommittee on Communications and Technology
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Walden:

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Tom Wheeler